IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLN.NO.1857 OF 2007

Mr.Ramesh Madhav Bhadge ..Applicant

Vs.

State of Maharashtra & Ors. ..Respondents

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Mr.D.S.Manjrekar and S.D.Bhujbal Advocate for Applicant
Mr.Rajesh More A.P.P. for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : JUNE 28, 2007

P.C.

1. Heard the learned advocate for the applicant and the learned A.P.P. for the State.

2. The applicant-orignial complainant has filed this application for cancellation of bail granted to Respondent Nos.2 and 3-original accused by the learned Additional Sessions Judge, Thane by order dated 30.4.2007. The said bail came to be granted in CR No.I-73 of 2005 of Kashimira Police Station. The said case is mainly under Section 307 of IPC.

3. The learned advocate for the applicant has

submitted that bail came to be granted only because the learned APP before the trial Court submitted that the accused may be released on bail. I have perused the order dated 30.4.2007. It is seen that bail was not granted only on that ground but the learned Sessions Judge has dealt with the matter on merits and thereafter released the Respondent Nos.2 and 3 on bail. In the order, it is stated that there was some dispute on account of money between the accused and the complainant. On account of the said dispute, Respondent No.2 put a revolver on the head of the complainant and Respondent No.3 gave a blow of sword not with the blade but with the handle of the said sword and one other accused person beat him. As far as Respondent No.2 is concerned, he has not fired from the said revolver. He has pointed it out at the complainant. Other accused persons also beat with the handle of the sword. Both these acts show that there was no intention to commit murder of the complainant. It is further mentioned in the order that the medical certificate shows that injuries were not fatal. Lastly, it is observed that the investigation is over and the charge sheet has been filed. Looking to all these aspects which have been dealt with in

detail by the learned Sessions Judge, the learned Magistrate decided to release the Respondent Nos.2 and 3 on bail on these grounds and thereafter in the concluding para, the learned Magistrate has made a reference to the statement made by the learned APP & Respondent Nos.2 and 3 came to be released on bail.

4. The learned advocate for the applicant submitted that the Respondent Nos.2 and 3 have number of antecedents which were not pointed out to the Court when the order granting bail, came to be passed. However, it is an admitted fact that after the order granting bail came to be passed, Respondent Nos.2 and 3 have not indulged in any other offence. No such details have been pointed out to the Court. It is not the case of the applicant that any of these two persons have flouted the conditions imposed on them by the learned Sessions Judge. The grounds for cancellation of bail are limited, generally speaking, the four main grounds are (i) that the accused persons had absconded or will not be available for trial, (ii) the accused has tampered or tried to tamper with any of the prosecution

witnesses, (iii) the accused has misused the bail granted to him in any manner, (iv) that the order of bail is perverse and the learned Judge has not referred to any material circumstances on record as has been observed by the Supreme Court in the case of **Puran Vs. Rambilas and Anr.; AIR 2001 SC 2023**. None of these grounds are attracted in the present case, hence, I am not inclined to cancel bail granted to Respondent Nos.2 and 3 at this stage.

5. Liberty is granted to the applicant to prefer a fresh application for cancellation of bail in case these accused persons tamper with the prosecution witnesses including the complainant or make any attempt to do so or they flout any of the conditions of bail or on the ground that they have thereafter indulged in any other offence and have thus misused the bail granted to them.

6. Application is rejected.

[SMT.V.K.TAHILRAMANI, J.]